IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 5983 OF 2004

Sonia Arora ...Petitioner

Versus

Amit Arora & Anr ...Respondent

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Mr. Mohan Bir Singh with Smt. Pooja Singh, counsel for Petitioner

Mrs. Chitra Phadke, counsel for Respondents.

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CORAM: B. H. MARLAPALLE, J.

DATED: 15TH MARCH, 2005

P. C.:-

1. Heard Mr. Mohan Bir Singh the learned counsel for the petitioner wife and Mrs Chitra Phadke, the learned counsel for the respondent husband.

2. Rule. Mrs. Phadke waives service on Rule for respondent husband. By consent, rule is taken up for final hearing forthwith.

3. This petition arises from the order dated 1.4.2004 passed by the 4th Family Court at Mumbai. By the said order the interim application No. 111 of 2003 (Exh.2) filed in M.J. Petition A-737/03 came to be decided and partly allowed. The respondent-

husband has been directed to pay an amount of Rs.1600/- per month as interim maintenance to the petitioner wife from 19.4.2003.

4. It is contended on behalf of the petitioner wife that there was sufficient evidence brought before the Family Court to prima facie show that the respondent husband was financially sound and the maintenance amount of Rs.20,000/- per month claimed by the petitioner would not be beyond his monthly income. The Electricity Bills, Telephone Bills, No. of cars available with the family, cell phone bills, were relied upon by the petitioner wife to make out the case of the interim maintenance to be fixed at Rs.20,000/- per month. However, the learned Judge of the Family Court accepted the respondent-husband's contentions that his gross salary was Rs.3,200/- per month and that he was employed with M/s. Penta Engineering Corporation. The Family Court also distinguished between "Income" and "Means for income". It observed that the evidence produced by the petitioner husband indicated sufficient means but did not prove the income of the petitioner husband.

5. Mr. Singh, the learned counsel for the petitioner wife also placed on record wedding ceremony's photographs as well as the photographs of the lavish reception that was hosted during the

wedding ceremony. He also invited my attention to the jewellery that was exchanged and emphasised that the respondent husband and his family have been spending lavishly and in an affluent way of life and the case made out by the husband that he is an employee of M/s. Penta Engineering Corporation on monthly salary of Rs.3,200/- was totally false.

6. Having heard the arguments of the leaned counsel for the respective parties, I am satisfied that the amount of Rs.1,600/- per month fixed by the Family Court by way of interim maintenance is indefensible on all counts and at the same time the claim of wife for Rs.20,000/- per month also cannot be accepted. In the facts of this case, the appropriate interim maintenance amount would be Rs.10,000/- per month.

7. In the circumstances, this petition succeeds and the same is allowed partly by fixing the monthly interim maintenance amount at Rs.10,000/- from the date of the application filed before the Family Court i.e. 19.4.2003. All the arrears of maintenance amount shall be deposited with the registry of the Family Court within a period of four weeks from today and the petitioner wife would be entitled to withdraw the same. The M.J. Petition No. A-737 of 2003 filed by the petitioner wife shall be heard and decided as expeditiously as possible and preferably

within a period of six months from the date of receipt of the writ from this Court. The undertaking of the respective counsel to co-operate with the Family Court for the timely disposal of the said M.J. Petition is noted down.

8. Rule made absolute accordingly with no order as to costs.

9. Certified copy is expedited.

10. Writ to go forthwith to the Family Court at Mumbai.